

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

UNITED STATES OF AMERICA,  
  
Plaintiff,  
  
v.  
  
WALID H. ABDULLA,  
  
Defendant.

Case No. 2:17-cr-00060-HDM-WGC

ORDER

Defendant Walid Abdulla has filed a *pro se* motion for compassionate release pursuant to 18 U.S.C. § 3582(c)(1)(A).<sup>1</sup> (ECF No. 65). The government has opposed (ECF No. 68). No reply has been filed, and the time for doing so has expired.

In January 2017 and February 2017, Abdulla committed two robberies with the use of a BB gun that appeared to be a real gun. On February 21, 2017, he was charged by way of indictment with one count of bank robbery and one count of Hobbs Act robbery. (ECF No. 1). Abdulla entered a change of plea on May 10, 2017, and pled guilty to both counts of the indictment. (ECF Nos. 29 & 33). The court thereafter sentenced Abdulla to 67 months on each count, the counts running concurrently. According to Bureau of Prisons' information, Abdulla's current projected release date is November 16, 2021. See <https://www.bop.gov/inmateloc/> (last accessed Nov. 10, 2020). Abdulla now seeks early release from confinement pursuant to the provisions of 18 U.S.C. § 3582(c)(1)(A).

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<sup>1</sup> Pursuant to General Order 2020-06, the Federal Public Defender filed notice that it would not supplement Abdulla's motion. (ECF No. 66).

**I. Standard**

18 U.S.C. § 3582(c)(1)(A) provides in relevant part:

[T]he court, . . . upon motion of the defendant after the defendant has fully exhausted all administrative rights to appeal a failure of the Bureau of Prisons to bring a motion on the defendant's behalf or the lapse of 30 days from the receipt of such a request by the warden of the defendant's facility, whichever is earlier, may reduce the term of imprisonment (and may impose a term of probation or supervised release with or without conditions that does not exceed the unserved portion of the original term of imprisonment), after considering the factors set forth in section 3553(a) to the extent that they are applicable, if it finds that--

(i) extraordinary and compelling reasons warrant such a reduction;

. . . .

and that such a reduction is consistent with applicable policy statements issued by the Sentencing Commission.<sup>2</sup>

U.S.S.G. § 1B1.13 provides:

Upon motion of the Director of the Bureau of Prisons under 18 U.S.C. § 3582(c)(1)(A), the court may reduce a term of imprisonment (and may impose a term of supervised release with or without conditions that does not exceed the unserved portion of the original term of imprisonment) if, after considering the factors set forth in 18 U.S.C. § 3553(a), to the extent that they are applicable, the court determines that--

(1)(A) extraordinary and compelling reasons warrant the reduction;

. . . .

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<sup>2</sup> In addition to "extraordinary and compelling reasons," the court may grant a motion if "the defendant is at least 70 years of age, has served at least 30 years in prison, pursuant to a sentence imposed under section 3559(c), for the offense or offenses for which the defendant is currently imprisoned, and a determination has been made by the Director of the Bureau of Prisons that the defendant is not a danger to the safety of any other person or the community, as provided under section 3142(g)." 18 U.S.C. § 3582(c)(1)(A)(ii). Because Abdulla is not over 70 years of age and has not served more than thirty years in prison, this provision does not apply.

1 (2) the defendant is not a danger to the safety of  
any other person or to the community, as provided in 18  
2 U.S.C. § 3142(g); and

3 (3) the reduction is consistent with this policy  
statement.

4 U.S.S.G. § 1B1.13.

5 The defendant is not entitled to be present for a hearing on  
6 a motion for compassionate release. See Fed. R. Crim. P. 43(b)(4).

7 **II. Analysis**

8 Abdullah seeks release pursuant to § 3582(c)(1)(A) due to the  
9 COVID-19 epidemic and his age and underlying conditions, which he  
10 asserts put him at greater risk of COVID-19 complications. The  
11 government opposes, arguing that Abdullah has not established  
12 extraordinary and compelling reasons for his release and that  
13 Abdullah remains a danger to the community.

14 **A. Exhaustion**

15 Before a defendant may file a § 3582(c)(1)(A) motion, he must  
16 either (1) exhaust any administrative appeals of the warden's  
17 refusal to bring a motion or (2) wait thirty days from the warden's  
18 receipt of the request, whichever is earlier. The government  
19 concedes that Abdullah's motion has been exhausted. Abdullah  
20 submitted a request to the warden of his institution on August 14,  
21 2020. (ECF No. 65 at 3-4). More than thirty days have elapsed from  
22 the date Abdullah's request was received by the warden, so the  
23 motion is exhausted.

24 **B. Extraordinary and Compelling Reasons**

25 Section 1B1.13 sets forth specific examples of "extraordinary  
26 and compelling reasons," including in relevant part that the  
27 defendant is "suffering from a serious physical or medical  
28 condition . . . that substantially diminishes the ability of the

1 defendant to provide self-care within the environment of a  
2 correctional facility and from which he or she is not expected to  
3 recover." U.S.S.G. § 1B1.13 app. n.(1)(A)(ii)(I). Extraordinary  
4 and compelling reasons can also be based on family circumstances,  
5 including either "(i) [t]he death or incapacitation of the  
6 caregiver of the defendant's minor child or minor children"; or  
7 "(ii) [t]he incapacitation of the defendant's spouse or registered  
8 partner when the defendant would be the only available caregiver  
9 for the spouse or registered partner." *Id.* § 1B1.13 app. n.(1)(C).  
10 Finally, there is also a catch-all provision, which provides: "As  
11 determined by the Director of the Bureau of Prisons, there exists  
12 in the defendant's case an extraordinary and compelling reason  
13 other than, or in combination with, the reasons described in  
14 subdivisions (A) through (C)." *Id.* app. n.(1)(D).

15       Abdulla is 68 years old and claims a number of underlying  
16 conditions: abnormal EKG heart condition, near blindness, joint  
17 and bone disease, hypertension, arthritis and chronic pain. He  
18 also alleges speculative and conclusory long-term effects of  
19 having already contracted and recovered from COVID-19. The  
20 government asserts that the risk of Abdulla re-contracting the  
21 virus is low because there are currently no positive cases in his  
22 institution, FCI Lompoc. The government further contends that none  
23 of Abdulla's medical conditions puts him at increased risk of  
24 COVID-19 complications and severe outcomes.

25       As of the date of this order, there are no active cases of  
26 COVID-19 at FCI Lompoc. See <https://www.bop.gov/coronavirus/> (last  
27 accessed Nov. 17, 2020). It therefore appears that the measures  
28 the institution has taken to stem the spread of the novel

1 coronavirus have been effective and the risk of Abdulla again  
2 contracting COVID-19 is low. Further, Abdulla has already  
3 contracted and recovered from COVID-19 and there is no indication  
4 that his case was severe. Under these circumstances, the court  
5 finds that extraordinary and compelling reasons for Abdulla's  
6 early release do not exist.

7 However, even if extraordinary and compelling reasons did  
8 exist, the court would still deny the motion after considering  
9 Abdulla's criminal history and the 18 U.S.C. § 3553(a) factors.

10 **C. 18 U.S.C. § 3553(a) Factors**

11 The court may grant compassionate release only if the  
12 defendant is not a danger to any other person or to the community,  
13 as provided in 18 U.S.C. § 3142(g), *United States v. Johnson*, 2020  
14 WL 2114357, at \*1 (E.D. Wash. May 4, 2020) ("[T]he Court should  
15 not grant a sentence reduction if the defendant poses a risk of  
16 danger to the community, as defined in the Bail Reform Act."), and  
17 the relevant 18 U.S.C. § 3553(a) factors favor release. In this  
18 case, the court is not persuaded that Abdulla is no longer a danger  
19 to the community or that the § 3553(a) factors support early  
20 release.

21 The crimes Abdulla committed in this case were violent, and  
22 they were not his first. Before the instant robberies, Abdulla  
23 committed an armed bank robbery during which he held a gun close  
24 to a teller's head. He also at one time pulled a gun on some  
25 neighbors and threatened to kill them. The court is not therefore  
26 persuaded that Abdulla is no longer a danger to the community or  
27 that the § 3553(a) factors - and in particular, the nature and  
28 circumstances of the offense and the characteristics of the

1 defendant - favor early release. The court concludes that the full  
2 sentence of 67 months is necessary to reflect the seriousness of  
3 the offense, to promote respect for the law, and to provide just  
4 punishment for the offense, to afford adequate deterrence to  
5 criminal conduct, to protect the public from further crimes of the  
6 defendant, and to avoid unwarranted sentence disparities among  
7 defendants with similar records who have been found guilty of  
8 similar conduct. On those grounds as well, then, the motion will  
9 be denied.

10 **III. Conclusion**

11 In accordance with the foregoing, Abdulla's motion for  
12 compassionate release (ECF No. 65) is hereby DENIED.

13 IT IS SO ORDERED.

14 DATED: This 17th day of November, 2020.

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16   
17 UNITED STATES DISTRICT JUDGE